

CHAPTER 3900

DEPARTMENT OF EMPLOYEE RELATIONS

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3900.0100 PURPOSE AND SCOPE OF RULES.

Chapters 3900, 3905, and 3910 supplement and clarify the provisions of Minnesota Statutes, chapter 43A, which generally affect the rights of or processes available to the general public. They also apply to state employees of the executive branch when the employees participate in any process that is available to the general public. Unless otherwise stated, these rules apply to positions in the civil service in the executive branch, the office of the legislative auditor, the Minnesota State Retirement System, and the Teachers Retirement Association.

Statutory Authority: *MS s 43A.04 subd 3*

3900.0200 OTHER ELEMENTS OF THE STATE PERSONNEL SYSTEM.

Subpart 1. **Commissioner.** The commissioner is the chief personnel and labor relations manager for the civil service of the executive branch. The commissioner is responsible for carrying out Minnesota Statutes, chapter 43A. Personnel rules are one of several elements used to implement Minnesota Statutes, chapter 43A. Other elements are described in subparts 2, 3, and 4.

Subp. 2. **Collective bargaining agreements.** Collective bargaining agreements define or describe terms and conditions of employment between the state and exclusive

representatives of employees as directed under Minnesota Statutes, sections 179A.01 to 179A.25. Provisions of collective bargaining agreements supersede inconsistent provisions of chapters 3900, 3905, and 3910 for employees covered under these agreements.

Subp. 3. Other employment plans. Certain plans established and approved under Minnesota Statutes, section 43A.18, define or describe terms and conditions of employment for all classified and unclassified employees in the executive branch who are not covered by a collective bargaining agreement. Provisions of these plans supersede inconsistent provisions of chapters 3900, 3905, and 3910 for employees covered by these plans.

Subp. 4. Administrative procedures. Certain administrative procedures adopted in accordance with Minnesota Statutes, section 43A.04, subdivision 4, define or describe employee relations programs, activities, and elements for state agency management and employees but do not directly affect the rights of or processes available to the general public.

Statutory Authority: *MS s 43A.04 subd 3*

3900.0300 ACTIONS TAKEN BEFORE JULY 31, 1983.

Personnel actions taken before July 31, 1983, are governed by the rules that were in effect on the date when the actions were taken.

Statutory Authority: *MS s 43A.04 subd 3*

3900.0400 DEFINITIONS.

Subpart 1. Scope. For purposes of chapters 3900, 3905, and 3910, the terms defined in this part have the meanings given them. Terms used in chapters 3900, 3905, and 3910 which are defined in Minnesota Statutes, section 43A.02, and part 3910.0200 shall have the meanings there given them.

Subp. 2. Affirmative action. "Affirmative action" means a management point of view that all barriers to employment opportunity that are not based on specific job requirements should be identified and removed and that initial employment and advancement opportunities for persons in protected groups shown to be underutilized in an agency's work force should be facilitated so that the imbalance is redressed.

Subp. 3. Affirmative action plan. "Affirmative action plan" means a coherent set of management policies and procedures designed to find any barriers contributing to imbalance in an agency's work force and to foster the correction of any imbalances which exist.

Subp. 4. Agency subdivision. "Agency subdivision," for purposes of affirmative action, means a state hospital or nursing home, state school, state university, community college, correctional facility, or regional or district office under the jurisdiction of a state agency, which is geographically separate and which has an appointing authority.

Subp. 5. Department. "Department" means the Department of Employee Relations, including the commissioner and the employees of the department.

Subp. 6. Director. "Director" means the state director of the Equal Opportunity Division, Department of Employee Relations.

Subp. 7. Emergency employee. "Emergency employee" means an employee who is appointed for no more than 30 aggregate working days in any 12-month period for any single appointing authority.

Subp. 8. Employment condition. "Employment condition" means any limitation on continuous employment caused by the number of hours of work assigned to an employee, and his or her appointment status. Hours of work may be full time, part time, or intermittent. Appointment status may be unlimited, limited temporary, limited emergency, or seasonal.

Subp. 9. Full-time employee. "Full-time employee" means an employee who is normally scheduled to work 80 hours in a biweekly payroll period.

Subp. 10. **Goal.** "Goal" means a numerical objective designed to correct an identified deficiency in the utilization of protected group members.

Subp. 11. **Goal unit.** "Goal unit" means:

A. each of the groups of classifications in an agency or agency subdivision assigned to the units defined in Minnesota Statutes, section 179A.20, subdivision 2;

B. the group of employees in an agency or agency subdivision whose terms and conditions of employment are subject to the provisions of Minnesota Statutes, section 43A.18, subdivision 2;

C. the group of employees in an agency or agency subdivision whose terms and conditions of employment are subject to the provisions of Minnesota Statutes, section 43A.18, subdivision 3; or

D. the group of employees in an agency or agency subdivision whose total compensation is subject to the provisions of Minnesota Statutes, section 43A.18, subdivision 4.

Subp. 12. [Repealed, 8 SR 1479]

Subp. 12a. **Handicapped.** "Handicapped" means any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

"Handicapped" does not include any individual who is an alcohol or drug abuser whose current use of alcohol or drugs prevents the individual from performing the duties of the job in question or whose employment, by reason of the current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.

Subp. 13. **Intermittent employee.** "Intermittent employee" means an employee who works an irregular and uncertain schedule which alternately begins, ceases, and begins again as the needs of the agency require.

Subp. 14. **Labor force statistics.** "Labor force statistics" means the estimated number of persons 16 years old or older who are working, seeking work, or unemployed at the time as determined by the most recent federal census published by the United States Department of Commerce, Bureau of the Census.

Subp. 15. **Labor market area.** "Labor market area" means a geographic area in which an employer is seeking a worker in a particular goal unit and where there is an available supply of workers employed or seeking jobs in that goal unit.

Subp. 16. [Repealed, 8 SR 1479]

Subp. 17. **Part-time employee.** "Part-time employee" means an employee who is normally scheduled to work fewer than 80 hours in a biweekly payroll period.

Subp. 18. **Seasonal employee.** "Seasonal employee" means an employee who is appointed for no more than ten months during any 12 consecutive months but who is expected to return to work year after year.

Subp. 19. **Temporary employee.** "Temporary employee" means an employee who is appointed with a definite ending date. A temporary employee's term of employment may not exceed a total of 12 months in any 24-month period in any one agency.

Subp. 20. **Timetable.** "Timetable" means a prescribed reasonable time period in which affirmative action goals are expected to be achieved.

Subp. 21. **Underutilization.** "Underutilization" means the employment in a goal unit of fewer qualified protected group members than would reasonably be expected from their workforce participation in the labor market area.

Subp. 22. **Unlimited employee.** "Unlimited employee" means an employee who is appointed with no definite ending date.

Statutory Authority: *MS s 43A.04 subd 3*

History: 8 SR 1479

CLASSIFICATION

3900.1100 USE OF CLASS TITLES.

The title of the class is the official title of every position allocated to that class for all purposes having to do with the position. The title is used on all personnel records, payroll records, budget estimates, official records, and reports related to the position. An appointing authority may use any other working title to designate a particular position for the purposes of internal administration and in any other connection not involving the personnel processes covered by administrative procedures, statutory law, or chapters 3900, 3905, and 3910.

Statutory Authority: *MS s 43A.04 subd 3*

3900.1200 CLASS SPECIFICATIONS.

The commissioner shall make available for public inspection, and may amend, written class specifications for any class in the classification plan. Each class specification must include the class title, a general description of the scope of the work, and the knowledge, skills, and abilities an incumbent should possess in order to perform duties of the class. If a classification consists of only one position, the commissioner may use the position description as the class specification.

Definitions used in class specifications are descriptive and not restrictive, indicating the kinds of positions allocated to classes, and are not to be construed as limiting in any way or modifying the power of the appointing authority to appoint, direct, and control the work of employees. Using a particular expression or illustration of duties does not exclude other duties not mentioned that are of a similar kind or quality.

Statutory Authority: *MS s 43A.04 subd 3*

3900.1300 TEMPORARY DESIGNATION OF POSITIONS IN THE UNCLASSIFIED SERVICE.

The commissioner may authorize the temporary designation of a position in the unclassified service in accordance with Minnesota Statutes, section 43A.08, subdivision 2a, for a period not to exceed three years. After considering the documentation submitted by the appointing authority, the commissioner shall determine whether the position is classified or unclassified.

Statutory Authority: *MS s 43A.04 subd 3*

WAGE AND SALARY

3900.2100 ADMINISTRATION OF THE WAGE AND SALARY PLAN.

Subpart 1. **Scope.** This part applies to all classified and unclassified positions in the executive branch, the classified positions in the office of the legislative auditor, the Minnesota State Retirement System, and the Teachers Retirement Association, which have been assigned to salary ranges by the commissioner. The rule is conditional upon the availability of funds and authorization by the commissioner of finance.

Subp. 2. **Salary upon entry into civil service.** Salary upon entry into civil service should usually be at the minimum rate for the classification. An appointing authority may make an appointment at the second or third step of a range or within 12 percent of the minimum rate for the class when the salary range does not contain steps. An appointing authority must receive prior authorization from the commissioner to make an appointment at or beyond the fourth step of the salary range or more than 12 percent above the minimum rate when the range does not contain steps. The commissioner may disapprove an unauthorized salary offer by an appointing authority beyond the third step of a salary range or more than 12 percent from the minimum rate. Appointments above the minimum rate must be based upon the exceptional qualifications of the candidate or the unavailability of candidates at the minimum rate.

Salaries paid to current employees in the same or related classifications must also be taken into consideration.

Subp. 3. Salary upon reinstatement or appointment from a reemployment list. If a former employee is reinstated or reemployed in a classification in which the employee was previously employed, the appointing authority may make the appointment at the same rate of pay the employee had been receiving at the time of his or her last separation from that classification plus any automatic adjustments that may have been made since the employee left the civil service or the classification. Appointments above this rate of pay must be approved by the commissioner before they can take effect. Automatic adjustments include, but are not limited to, across-the-board adjustments, equity adjustments, and cost-of-living adjustments and do not include performance-related increases that the employee might have received had he or she remained in the classification.

Statutory Authority: *MS s 43A.04 subd 3*

3900.2200 RELOCATION EXPENSES.

Subpart 1. Conditions for reimbursement. An appointing authority may reimburse a person for relocation expenses associated with an initial appointment in the civil service. Authorization for relocation expenses must be made on or before the date of hire. The relocation must be completed within six calendar months unless the time period is extended, in writing, to a maximum of one year by the appointing authority.

Subp. 2. Reimbursement limits. The reimbursement limit is that prescribed in the collective bargaining agreement or the compensation plan which applies to the position being filled. The appointing authority may establish lower limits for both the type and amount of reimbursement. Payment for relocation expenses may be made after the person has become an employee.

Subp. 3. State not responsible for loss or damage. The state of Minnesota is not responsible for loss or damage to household goods or personal effects as a result of a relocation covered by this part.

Statutory Authority: *MS s 43A.04 subd 3*

RECRUITMENT

3900.3100 ANNOUNCEMENT OF EXAMINATION ON COMPETITIVE OPEN OR PROMOTIONAL BASIS.

The commissioner shall decide whether to announce an examination on a competitive open or competitive promotional basis or both. To make this decision, the commissioner shall consider:

- A. the requests of appointing authorities;
- B. the provisions of collective bargaining agreements or plans established under Minnesota Statutes, section 43A.18, that could limit the opportunities of applicants from outside the civil service to receive consideration for appointment;
- C. the anticipated number of qualified applicants within and outside the civil service;
- D. ways to meet affirmative action goals; and
- E. career opportunities and mobility for employees.

Statutory Authority: *MS s 43A.04 subd 3*

3900.3200 PUBLIC NOTICE OF EXAMINATIONS.

The commissioner shall provide public notice of the opening of competitive open examinations by posting announcements on the public bulletin board at the department for at least seven days. The commissioner may publicize examination announcements in any way he or she considers appropriate to attract qualified applicants. These ways may include providing notice of announcements in newspapers or appropriate public offices.

Statutory Authority: *MS s 43A.04 subd 3*

3900.3300 CONTENTS OF ANNOUNCEMENTS OF EXAMINATIONS.

Announcements of examinations must specify the title of the class or class option, typical job duties, components of the examination process, limitations on applicant admission, the date by which applications must be received, and the place where applications should be submitted. Announcements may contain any other information that the commissioner considers useful to attract qualified applicants.

Statutory Authority: *MS s 43A.04 subd 3*

3900.3400 EXPENSES OF CANDIDATES FOR CIVIL SERVICE POSITIONS.

The commissioner or an appointing authority may pay travel expenses for candidates or eligibles invited to participate in oral examinations or employment interviews. In determining to pay travel expenses, the commissioner or an appointing authority will consider the availability of qualified candidates, the needs of the agency or state service, and the availability of funds. Any expenses paid are subject to the provisions of the commissioner's plan, established under Minnesota Statutes, section 43A.18, subdivision 2, regarding types and maximum amounts of reimbursement.

Statutory Authority: *MS s 43A.04 subd 3*

COMPETITIVE OPEN EXAMINATIONS**3900.4100 APPLICATIONS FOR COMPETITIVE OPEN EXAMINATIONS.**

Applicants shall apply for competitive open examinations on forms prescribed by the commissioner. The forms must be used to ask for information for use in the examination and appointment process, including an indication of applicant availability for certain geographic locations, employment conditions, or travel. The application form must contain a statement providing that false information on the application may subject the applicant to the penalty provisions of Minnesota Statutes, section 43A.39. It must also contain a statement explaining why private or confidential information is being collected and the purpose for which it is to be used and must indicate that the appointing authority has the right to verify information provided in the application.

Statutory Authority: *MS s 43A.04 subd 3*

3900.4200 ADMISSION TO EXAMINATIONS.

Subpart 1. **In general.** The commissioner shall admit to examinations applicants whose completed applications are received at the place specified in the examination announcement on or before the specified date.

The commissioner may admit an applicant who has submitted an incomplete timely application but shall require completion of the application. The commissioner shall withdraw the applications of applicants who fail to respond to requests for information within a specified period.

Subp. 2. **Limited admissions.** The commissioner may limit admission to those applicants who indicate their availability for geographic locations and employment conditions specified in the examination announcement.

The commissioner may announce the maximum number of candidates whose names will be placed on the list or who will be permitted to compete in any of the separate examination parts.

The commissioner may admit candidates to later examination parts in rank order of rating on the previous parts, and may invite additional candidates to complete the examination process as the need arises to create or expand an eligible list.

Subp. 3. **Refusal to admit to an examination.** To protect the security of an examination, the commissioner may refuse to admit an applicant to an examination or examination part when the applicant has taken the same examination or examination part within the preceding six months. In deciding whether to let an applicant repeat an examination or examination part, the commissioner shall consider the type of examina-

tion questions involved, the effect of memory and practice, the availability of untested applicants, and other circumstances regarding the examination, needs of agencies, and situations of individual applicants. If the same examination or examination part is used more than once within a six-month period for the same or a different classification, an applicant who has been refused admission because of a six-month retest prohibition may submit an application and have the score he or she obtained on the previous examination or examination part apply to the subsequent examination or examination part.

The commissioner may remove from further consideration the applications of candidates who do not appear at the scheduled time or place for an examination or examination part.

Subp. 4. Notice of admittance and refusal to admit. The commissioner shall notify candidates of the date, time, and place for those parts of the examination process which require the candidate to appear in person.

The commissioner shall give an applicant the reasons for refusing to accept an application or to admit an applicant to an examination or examination part.

Statutory Authority: *MS s 43A.04 subd 3*

3900.4300 CHANGE OF APPLICATION DEADLINE OR EXAMINATION DATE.

The commissioner may postpone the last date for filing applications and the date of any examination part or may cancel an examination or examination part. In these cases, the commissioner shall notify candidates of the new date or cancellation.

Statutory Authority: *MS s 43A.04 subd 3*

3900.4400 ADMINISTRATION OF EXAMINATIONS.

The commissioner will administer all examination parts at the time and place and by the personnel he or she decides most nearly meet the needs of the service.

Statutory Authority: *MS s 43A.04 subd 3*

3900.4500 SCORING OF EXAMINATIONS.

The commissioner shall decide the appropriate scientific techniques and procedures to be used to score examinations and to determine the ratings of candidates. The commissioner shall set the *minimum rating for achieving eligibility considering the requirements of the class and the number of vacancies anticipated while the eligible list is in force*. Final ratings of candidates will be determined by computing the earned rating on each examination part in accordance with the weights established for each part. The commissioner may require candidates to obtain a minimum rating on each examination part in order to receive a final passing rating or to pass all preceding examination parts in order to be rated on the remaining parts of the examination process. Veterans preference points will be assigned in accordance with Minnesota Statutes, section 43A.11, and applied only after a candidate has attained a final passing examination rating. Where rating procedures involve assignment of a numerical score, a score of 70 is required to pass and a score of 100 is the maximum score.

Statutory Authority: *MS s 43A.04 subd 3*

3900.4600 NOTIFICATION OF EXAMINATION RATINGS.

The commissioner shall give written notice to all candidates of their rating and must keep these ratings as official records of the department.

Statutory Authority: *MS s 43A.04 subd 3*

3900.4700 EXPLANATION AND APPEALS OF EXAMINATION RATINGS.

Subpart 1. Procedures. Upon request, the commissioner shall give a candidate or his or her authorized representative an explanation of the methods used to determine an examination rating. A candidate may appeal to the commissioner in writing for reconsideration of his or her examination rating. The appeal must be received in the

department within 30 calendar days of the date on the notice of examination rating and shall state the grounds for the appeal. The commissioner shall grant a review on the grounds of error, irregularity, or fraud in the conduct or scoring of the examination or upon submission of additional information affecting the original rating.

Subp. 2. Review of other candidate ratings. If a review discloses errors, fraud, or irregularities affecting the ratings of other candidates, the review may be extended to the ratings of those candidates.

Subp. 3. Rating change required. The commissioner must change the rating of a candidate if additional information affecting the original rating is submitted or if an error was made in the original rating, or must order a new examination or a revision to the examination for the candidate or for all competitors if an error or irregularity occurred in the conduct or scoring of the examination.

Subp. 4. Effect of rating change. A change made in the rating of a candidate as the result of an appeal will not affect an appointment already made in good faith as the result of original ratings.

Statutory Authority: *MS s 43A.04 subd 3*

SELECTION AND TESTING PROCEDURES FOR HANDICAPPED APPLICANTS

3900.5100 TEST ACCOMMODATIONS FOR APPLICANTS WHO ARE HANDICAPPED.

Applicants who are handicapped may request that an examination process be altered to accommodate their handicaps. The applicant shall indicate on the standard application form prescribed in part 3900.4100 the handicapping condition which substantially limits one or more major life activities and the specific accommodation desired.

The commissioner shall consider the following in reviewing requests for test accommodations: whether the content and form of the examination would make the requested accommodations necessary; whether the requested accommodations would compromise the validity or job-relatedness of the examination; and whether the requested accommodations can reasonably be made. The commissioner shall decide whether to admit the applicant to the examination if it is open to application and to make the requested accommodations or to deny the request for accommodations. If the commissioner denies the request for accommodations, the applicant shall be offered the choice of participating in the competitive examination process if it is open for application or, if the commissioner determines that the applicant meets the eligibility criteria specified in Minnesota Statutes, section 43A.10, subdivision 8, of participating in a qualified handicapped examination in accordance with part 3900.5200.

Statutory Authority: *MS s 43A.04 subd 3*

3900.5200 QUALIFIED HANDICAPPED EXAMINATION.

Subpart 1. Criteria for offering. The commissioner may offer applicants whose handicaps are so severe that they cannot be accommodated in the competitive examination process a qualified handicapped examination in accordance with Minnesota Statutes, section 43A.10, subdivision 8. A qualified handicapped examination shall consist of an on-the-job trial work experience of up to 700 hours. The commissioner shall approve a qualified handicapped examination if the commissioner determines that not all of the standard examination requirements need to be met for some positions in the class and whether the job duties or procedures can be altered so that the applicant could perform the essential duties of a position in the class.

Subp. 2. Placement. A candidate admitted for a qualified handicapped examination must be given a list of agencies having positions in the class and written authorization by the commissioner to seek a vacant position in the class. The candidate, with the help of a placement and referral specialist in a rehabilitation program recognized by the

state, may contact the agencies to develop a suitable placement. The commissioner in accordance with Minnesota Statutes, section 43A.10, subdivision 8, shall authorize an examination in any position determined suitable by the candidate, counselor, and appointing authority.

Subp. 3. **Completion or termination of examination.** A qualified handicapped examination may be successfully completed at any time during the 700 hours of work experience if the appointing authority notifies the commissioner that the candidate can satisfactorily perform the essential duties of the position and is eligible for probationary appointment in accordance with Minnesota Statutes, section 43A.13, subdivision 6. A qualified handicapped examination may be terminated at any point during the 700 hours of work experience, except for the first 30 scheduled work days from the date of the start of the examination, if the appointing authority notifies the commissioner that the candidate cannot satisfactorily perform the essential duties of the position. A candidate terminated from a qualified handicapped examination shall be authorized to seek placement in other positions in the class if the commissioner decides that the candidate's inability to perform was limited to duties essential to the specific position in which he or she was placed but which are not essential for other positions in the class.

Statutory Authority: *MS s 43A.04 subd 3*

History: *17 SR 1279*

3900.5300 NOTICE.

The commissioner shall notify an applicant who is handicapped and, upon request, provide a written statement of the reasons for the decision, of any of the following decisions:

A. to provide or deny a request for test accommodations except when the test accommodation is unnecessary due to the examination format; or

B. to admit or deny admission to a competitive or qualified handicapped examination.

Statutory Authority: *MS s 43A.04 subd 3*

ESTABLISHMENT AND MAINTENANCE OF ELIGIBLE LISTS

3900.6100 ELIGIBLE LISTS.

The commissioner shall keep eligible lists in accordance with Minnesota Statutes, sections 43A.11, subdivision 7, and 43A.12. If, after applying Minnesota Statutes, section 43A.11, subdivision 7, the commissioner finds that two or more candidates have identical final ratings, the commissioner shall place their names on the eligible list in descending order of the last four digits of their social security numbers with larger numbers coming first.

Statutory Authority: *MS s 43A.04 subd 3*

3900.6200 REEMPLOYMENT LISTS AND REINSTATEMENT.

An appointing authority may directly reinstate a former permanent or probationary employee to a vacancy in the same class within three years of the former employee's separation from that class.

The commissioner shall establish and maintain a reemployment list of former permanent or probationary employees of the class who apply for reemployment within three years of separation from the class. In deciding whether to place the name of a former employee on the reemployment list, the commissioner shall consider the reemployment rating reported by the person's former appointing authority.

Statutory Authority: *MS s 43A.04 subd 3*

3900.6300 DURATION OF ELIGIBLE LISTS.

Subpart 1. **Commissioner's decision.** The commissioner shall decide how long competitive open and reemployment eligible lists will remain in effect. Under Minneso-

ta Statutes, section 43A.12, a list must remain in effect for at least six months unless the class for which the examination was given is abolished.

Subp. 2. Factors in decision. To determine whether to abolish or continue an eligible list after six months, the commissioner shall consider the following factors: whether the examination process has changed, how many vacancies are anticipated, when the examination was last administered, how many eligibles are still available, and how often the existing eligible list has been used. If a competitive open eligible list exists for a class and the commissioner considers it necessary to establish another competitive open list for the same class, the existing list must either be abolished or combined with the new list by placing names of all eligibles in order of their final ratings.

Subp. 3. Duration of eligibility. A candidate's eligibility begins on the date a candidate's name is placed on an eligible list and continues for the duration established by the commissioner for that eligible list except as otherwise provided in parts 3900.0100 to 3900.3300. If it becomes necessary to abolish an eligible list before the published expiration of eligibility, the commissioner shall notify eligibles and offer them the opportunity to reapply if the examination is to be reannounced.

Statutory Authority: *MS s 43A.04 subd 3*

3900.6400 REMOVAL OF NAMES FROM ELIGIBLE LISTS.

The commissioner may remove names from eligible lists permanently or temporarily in accordance with Minnesota Statutes, section 43A.13, subdivision 8, or in any of the following situations:

A. when the eligible has been appointed to fill a permanent position in the class;

B. when the eligible has been appointed to fill a permanent position in another class at a comparable or higher salary;

C. when the eligible fails to respond within seven days from the date of mailing to a written inquiry of the commissioner or an appointing authority about availability for appointment;

D. when the eligible declines an appointment under conditions the eligible previously indicated would be acceptable;

E. when the eligible fails to report for a scheduled employment interview or for work within the time period prescribed by an appointing authority;

F. when the eligible fails to maintain a record of current address; and

G. when the appointing authority documents that an eligible does not meet the requirements of the position or the eligible fails to successfully complete a required examination part administered following certification.

Statutory Authority: *MS s 43A.04 subd 3*

3900.6500 NOTICE OF REMOVAL OF NAMES FROM ELIGIBLE LISTS.

The commissioner shall notify eligibles in writing when permanently removing names in accordance with part 3900.6400, item G and Minnesota Statutes, section 43A.13, subdivision 8.

Statutory Authority: *MS s 43A.04 subd 3*

3900.6600 RESTORATION OF NAMES TO ELIGIBLE LISTS.

An eligible whose name is removed from an eligible list in accordance with part 3900.3300 may request in writing that the commissioner restore his or her name to the list for the duration of the list. The request must state why the eligible believes his or her name should be restored to the eligible list. After reviewing the request, the commissioner may restore the eligible's name to the eligible list.

Statutory Authority: *MS s 43A.04 subd 3*

3900.6700 CHANGES IN ELIGIBLE PERSON'S AVAILABILITY.

Eligibles may notify the commissioner of changes in their availability at any time while the eligible list is in force.

Statutory Authority: *MS s 43A.04 subd 3*

CERTIFICATION AND APPOINTMENTS

3900.7100 ORDER OF CERTIFICATION.

The commissioner shall certify eligibles to vacancies from whichever eligible list he or she finds appropriate, considering any requests of an appointing authority for a specific eligible list and any obligations under collective bargaining agreements or plans established under Minnesota Statutes, section 43A.18. Eligibles shall be certified as provided in Minnesota Statutes, section 43A.13.

The commissioner shall generally certify in the following order: layoff lists; competitive promotional lists; and competitive open and reemployment lists.

Statutory Authority: *MS s 43A.04 subd 3*

3900.7200 SELECTIVE CERTIFICATION.

When the commissioner is satisfied that the job-related information given by an appointing authority warrants the action, he or she may limit certification to the eligibles possessing identified special qualifications.

Statutory Authority: *MS s 43A.04 subd 3*

3900.7300 INCOMPLETE AND AUGMENTED CERTIFICATION.

If certified eligibles are unavailable for hire, an appointing authority may request a new certification or request that additional names be added to the certification. Additional names will be added in order of standing to bring the number to the maximum allowable by law. If the request to add names is made more than 30 days after the original certification date, the commissioner will provide a new certification from the eligible list.

If additional names are not available and the certification contains fewer names than authorized by law, the commissioner may decide that the remaining names certified are sufficient to provide a reasonable selection and that they constitute a complete certification. The commissioner may instead augment the incomplete certification with names from other types of eligible lists for the class or from eligible lists for classes of higher or similar compensation if the commissioner determines the examination reasonably measures the ability to perform the duties of the class for which certification is made.

Statutory Authority: *MS s 43A.04 subd 3*

3900.7400 REVISED CERTIFICATION.

If the rating of an eligible is changed as the result of an appeal under part 3900.4700, and the change places the eligible's rating among those of other eligibles certified to a vacancy in accordance with Minnesota Statutes, section 43A.13, the commissioner shall add the eligible's name to that certification. At the discretion of the commissioner, the name of an eligible who has changed a statement of availability in accordance with part 3900.6700 may be added to a certification if the change places the eligible's rating among those of other eligibles who were certified under Minnesota Statutes, section 43A.13. The addition of a name in accordance with this rule does not affect an employment offer already made.

Statutory Authority: *MS s 43A.04 subd 3*

3900.7500 APPOINTMENTS.

Positions in the classified service must be filled by appointments from eligible lists except as otherwise provided by chapters 3900, 3905, 3910, and Minnesota Statutes, chapter 43A. An appointing authority may select an eligible from an eligible list after comparing the knowledge, skills, and abilities of the eligibles with the specific needs of the position and agency. Specific needs include meeting agency affirmative action goals.

The appointing authority is responsible for verifying all job-related information on all prospective employees for civil service positions. On or before the appointment date, the appointing authority should explain to the prospective employee his or her proposed classification title, employment status, salary, and terms and conditions of employment. The appointing authority shall submit appropriate appointment forms to the commissioner which must include the effective date of appointment. Appointments made from eligible lists are effective only on or after the date of certification.

Statutory Authority: *MS s 43A.04 subd 3*

OTHER MEANS OF FILLING POSITIONS IN THE CIVIL SERVICE

3900.8100 OTHER MEANS OF FILLING CIVIL SERVICE POSITIONS.

In addition to filling vacancies in the civil service by appointing certified eligibles, appointing authorities may make noncompetitive, qualifying, labor service, work training, internship, or unclassified appointments in accordance with Minnesota Statutes. Those appointments may be made when authorized by the commissioner or by statute and are subject to parts 3900.8200 to 3900.9000.

Statutory Authority: *MS s 43A.04 subd 3*

3900.8200 EMERGENCY APPOINTMENTS.

An appointing authority may make an emergency appointment to meet unique and immediate needs. The appointing authority may appoint any person he or she considers qualified. Appointments are limited to 30 working days in any 12-month period by Minnesota Statutes, section 43A.15, subdivision 2.

Statutory Authority: *MS s 43A.04 subd 3*

3900.8300 TEMPORARY APPOINTMENTS.

The commissioner may approve an appointing authority's written request for a temporary appointment for:

- A. filling a vacancy funded for six months or less;
- B. providing an employee for a temporary project not anticipated to last more than six months;
- C. filling a vacancy created by an approved leave of absence to a maximum of one year; or
- D. unusual documented instances, when an appointing authority asks to make a temporary appointment of six months or less to a position otherwise authorized for more than six months.

An appointing authority may request authorization to make a direct temporary appointment of any person he or she considers qualified in accordance with Minnesota Statutes, section 43A.15, subdivision 3. The commissioner may certify any qualified eligible from an appropriate eligible list or may authorize the appointing authority to make a direct appointment of a person he or she considers qualified or both. In making this decision, the commissioner will consider requests from the appointing authority, the anticipated length of the temporary appointment, and the number and availability of eligibles for temporary appointments.

Statutory Authority: *MS s 43A.04 subd 3*

3900.8400 PROVISIONAL APPOINTMENTS.

Subpart 1. **Authorization.** The commissioner may authorize a provisional appointment in accordance with Minnesota Statutes, section 43A.15, subdivision 4, after considering the following documentation submitted by the appointing authority:

A. an explanation of the urgent reason for filling the vacancy which makes it impractical to await results of a competitive examination;

B. a statement that there is no appropriate eligible list available or that all eligible candidates on an incomplete certification from an eligible list are unavailable or unsuitable for appointment, including a specific statement of the job-related reasons for determining an eligible to be unsuitable; and

C. a description of the nominee's qualifications in the form prescribed by the commissioner to permit examination of the nominee's qualifications to determine whether the nominee is qualified to be provisionally appointed to the position as required by Minnesota Statutes, section 43A.15, subdivision 4.

Subp. 2. **Termination.** The appointing authority shall terminate a provisional appointment 90 days after the commissioner provides a certification from which an appointment could be made, or after six months, whichever is earlier. However, in individual cases, the commissioner may grant exceptions and extend provisional appointments in accordance with Minnesota Statutes, section 43A.15, subdivision 4, if the appointing authority documents a continued shortage of qualified eligibles.

Statutory Authority: *MS s 43A.04 subd 3*

3900.8500 EMPLOYEE TRANSFERS FROM OTHER PUBLIC JURISDICTIONS.

Subpart 1. **Permitted transfers or demotions.** The commissioner may approve the transfer or voluntary demotion of an employee from another public jurisdiction if the following conditions are met:

A. the employee is currently working in the other public jurisdiction or has worked in the other public jurisdiction within the preceding year;

B. the position held by the employee in the other public jurisdiction is covered by a personnel system with competitive entry and promotion standards, comparable in duties and responsibilities to the Minnesota classified position, and compensated at a level similar to or higher than the position to which the employee is being transferred or demoted; and

C. the employee meets the qualifications for the class to which he or she is being transferred or demoted.

Subp. 2. **Disallowed transfers.** The commissioner shall not approve the transfer of an employee to a position funded by a grant-in-aid program from a public jurisdiction without a federally approved merit system.

Statutory Authority: *MS s 43A.04 subd 3*

3900.8600 EXCEPTIONAL APPOINTMENTS.

The commissioner may authorize an exceptional appointment in accordance with Minnesota Statutes, section 43A.15, subdivision 8, after considering the following documentation submitted by the appointing authority:

A. a statement that the position requires exceptional qualifications of a scientific, professional, or expert nature;

B. a statement that the intended appointee possesses the qualifications; and

C. a statement that it is impracticable to conduct a competitive examination to select a suitable candidate.

Statutory Authority: *MS s 43A.04 subd 3*

3900.8700 ROUTINE SERVICE APPOINTMENTS.

Appointing authorities may make routine service appointments only to positions in classes determined by the commissioner to be of a routine service nature as provided in

Minnesota Statutes, section 43A.15, subdivision 10. The commissioner shall give public notice as provided in part 3900.3200 designating the routine service classes and describing the procedures used in recruiting and selecting persons for appointment.

Statutory Authority: *MS s 43A.04 subd 3*

3900.8800 SHORTAGE OCCUPATION APPOINTMENTS.

An appointing authority may make shortage occupation appointments only to positions in classes determined to be in critically short supply of qualified applicants. The commissioner shall make this determination in accordance with Minnesota Statutes, section 43A.15, subdivision 11, considering documentation regarding the unavailability of qualified applicants for positions in the class, the length of time positions in the class remain vacant, and recruiting efforts made to secure applicants for the class. The commissioner shall give public notice as provided in part 3900.3200 designating the shortage occupation classes and describing the recruiting, qualifying examination, and referral processes to be used in filling positions in these classes.

Statutory Authority: *MS s 43A.04 subd 3*

3900.8900 WORK TRAINING APPOINTMENTS.

Appointing authorities may make work training appointments only to positions in work training programs approved by the commissioner. These appointments shall be of a predetermined duration.

Work training programs must include trainee recruitment and selection procedures that incorporate public notice of intent to accept applications for training.

Statutory Authority: *MS s 43A.04 subd 3*

3900.9000 INTERNSHIP APPOINTMENTS.

Appointing authorities may make internship appointments only to positions in programs established in cooperation with accredited educational institutions. These appointments shall be of a predetermined duration.

The internship appointment must provide academic credit or fulfillment of academic requirements for the participating student. An appointing authority is responsible for providing information about available programs and positions to institutions and students.

Statutory Authority: *MS s 43A.04 subd 3*

3900.9100 UNCLASSIFIED APPOINTMENTS.

Appointing authorities may make appointments to unclassified positions authorized in accordance with statute. Unclassified appointments do not require public notice. Unless otherwise specified in a statute, an appointing authority may appoint to an unclassified position any person he or she considers qualified. For persons appointed to positions for which compensation is established under Minnesota Statutes, section 43A.18, subdivisions 1, 2, and 3, the appointing authority shall submit the person's resume to the commissioner. No employee shall serve in positions authorized under part 3900.1300 performing the same function in the same agency for more than three years in total.

Statutory Authority: *MS s 43A.04 subd 3*

CONFLICT OF INTEREST

3900.9500 REPORTING AND INVESTIGATING CONFLICT OF INTEREST.

A member of the public may report an alleged conflict of interest concerning a civil service employee subject to the code of ethics in Minnesota Statutes, section 43A.38, to the commissioner or the employee's appointing authority. The appointing authority shall cooperate with the commissioner in investigating complaints. If the

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commissioner decides that a conflict of interest exists, the commissioner shall direct the appointing authority to take action in accordance with Minnesota Statutes, section 43A.38, subdivision 7. The appointing authority shall report actions taken to the commissioner within ten calendar days.

Statutory Authority: *MS s 43A.04 subd 3*